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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Suzanne Yu,

10 Plaintiff,

11 v.

12 Steven Fydeski, Desert Creek Film Fund I  
13 LLC, Desert Creek Film Fund Management  
14 LLC, Cloudburst Entertainment LLC,  
15 Cloudburst Distribution LLC, Storyboard  
16 Media LLC, and The Comeback Trail LLC,

Defendants.

No. CV-22-02182-PHX-JAT

**ORDER**

17 On January 10, 2023, the Court issued the following order:

18 “Inquiring whether the court has jurisdiction is a federal judge’s first  
19 duty in every case.” *Belleville Catering Co. v. Champaign Market Place,*  
20 *L.L.C.*, 350 F.3d 691, 693 (7th Cir. 2003). In this case, Plaintiff has alleged  
21 jurisdiction based on diversity of citizenship. *See* (Doc. 1 (citing 28 U.S.C. §  
22 1332)). However, the complaint fails to sufficiently plead the citizenship of  
23 the parties. *See Johnson v. Columbia Properties Anchorage, L.P.*, 437 F.3d  
24 894, 899 (9th Cir. 2006). Specifically, a complaint must list the citizenship  
25 of every member of any party that is a limited partnership or limited liability  
26 company. *NewGen, LLC v. Safe Cig, LLC*, 840 F.3d 606, 611 (9th Cir. 2016).

Accordingly,

23 **IT IS ORDERED** that by January 23, 2023, Plaintiff must file a  
24 supplement to the complaint properly pleading the citizenship of every party  
25 or this case will be dismissed, without prejudice, for lack of federal subject  
26 matter jurisdiction.

25 (Doc. 6).

26 On January 20, 2023, the Court issued the following order:

27 On January 11, 2023, Plaintiff filed a supplement which alleged the  
28 citizenship of some, but not all, relevant limited liability companies. The  
Court will give Plaintiff one last opportunity to plead jurisdiction before the

1 Court dismisses this case without prejudice for lack of federal subject matter  
jurisdiction. Therefore,

2 **IT IS ORDERED** that Plaintiff has until January 27, 2023, to file a  
second supplement to the complaint fully alleging the citizenship of all  
3 parties.

4 (Doc. 8).

5 On February 1, 2023, the Court issued the following order:

6 On January 27, 2023, Plaintiff filed a second supplement purporting  
to allege the citizenship of the members of the remaining LLC. Specifically,  
7 Plaintiff alleged: “Empire DJ Ventures, LLC, a Mississippi limited liability  
company, whose sole member, Bill Lockett, now deceased, was a citizen and  
8 resident of the state of Mississippi.” (Doc. 9 at 3). Mr. Lockett passed away  
in October 2021. See  
9 [https://www.jacksonfreepress.com/news/2021/nov/02/mississippi-blues-](https://www.jacksonfreepress.com/news/2021/nov/02/mississippi-blues-promoter-and-raconteur-bill-luck/)  
promoter-and-raconteur-bill-luck/ (last visited January 27, 2023).

10 “It is well settled that allegations invoking diversity jurisdiction must  
show that complete diversity existed at the time the action was filed.  
11 *Freeport–McMoRan, Inc. v. K N Energy, Inc.*, 498 U.S. 426, 428 (1991); see  
also *Smith v. Sperling*, 354 U.S. 91, 93, n. 1 (1957) (federal jurisdiction  
12 depends on facts in existence at the time the complaint is filed).” *W. World*  
*Ins. Co. v. Ramirez*, No. CV-06-2360-PHX-RCB, 2007 WL 1839594, at \*2  
13 (D. Ariz. June 26, 2007).

14 The complaint in this case was filed December 27, 2022. Mr.  
Lockett’s citizenship in October 2021, thus, does not inform the Court’s  
inquiry regarding diversity jurisdiction as of December 27, 2022. For  
15 example, the Court does not know if Mr. Lockett’s membership is part of an  
estate. See *Federal Diversity Jurisdiction*, 2 Ribstein and Keatinge on Ltd.  
16 Liab. Cos. § 13:7 (“From time to time there arise disputes [involving] the  
estates of deceased members [of an LLC]...[and in some circumstances] the  
17 estate may be a member and as such the LLC will share citizenship with the  
estate.”). Or, given the amount of time that has elapsed, it is possible Mr.  
18 Lockett’s membership interest has been distributed to an heir whose  
citizenship would then be relevant for purposes of diversity. Plaintiff did not  
19 allege any citizenship as of December 27, 2022, for this LLC.

20 **Further, given Plaintiff’s cavalier attitude toward establishing**  
**jurisdiction to date**, the Court has become concerned that to the extent the  
citizenship of the members of the other LLCs have been alleged on  
21 “information and belief” the Court does not know how serious an inquiry  
was made to create that information and belief. For example, simply  
22 ascertaining the members of an LLC as of the date of formation, if such date  
was many years ago, would not reliably disclose the membership as of  
23 December 27, 2022. While citizenship may be alleged on information and  
belief at the outset, the Court can require that a Plaintiff establish jurisdiction  
24 at a later time. *Carolina Cas. Ins. Co. v. Team Equip., Inc.*, 741 F.3d 1082,  
1088 (9th Cir. 2014).

25 The Court cautioned Plaintiff in the last order that she would only be  
given one further opportunity to plead federal subject matter jurisdiction.  
26 While Plaintiff did respond to that order, she still has failed to plead, even on  
information and belief, jurisdiction at the time the complaint was filed. The  
27 Court will require further supplementation from Plaintiff. Plaintiff is advised  
that if either of the supplements required herein are not filed, or are  
28 incomplete in any measure, there will not be a *fourth* opportunity to cure.  
Accordingly,

1           **IT IS ORDERED** that within 7 days of this order, Plaintiff must file  
 2 a supplement to the complaint completely *alleging* the citizenship of every  
 3 party in this case as of the date the complaint was filed.

4           **IT IS FURTHER ORDERED** that by July 1, 2023, Plaintiff must  
 5 file another supplement to the complaint *establishing* federal subject matter  
 6 jurisdiction as of the date the complaint was filed. This supplement must  
 7 include the basis for the representations in the supplement. Thus, Plaintiff  
 8 must use this time to take any necessary discovery to prove jurisdiction.

9 (Doc. 10) (emphasis added).

10           Plaintiff filed a supplement alleging jurisdiction as required by the February 1, 2023  
 11 order. The deadline to file the July 1, 2023 supplement establishing jurisdiction has not  
 12 yet expired.

13           However, on April 21, 2023, Plaintiff filed an amended complaint. (Doc. 27). The  
 14 amended complaint makes internally inconsistent jurisdictional allegations as noted by  
 15 Defendants. (Doc. 37). Specifically, the amended complaint states:

16           At all times relevant herein, Desert Creek Film Fund I, LLC... **sole member**  
 17 is Desert Creek Film Management, LLC...; the sole member of Desert Creek  
 18 Film Fund Management, LLC is Steven Fedyski, an individual, who at all  
 19 times material to this Complaint, is a resident and citizen of the State of  
 20 Arizona.

21 (Doc. 27 at 3, ¶6) (emphasis added).

22           Then amended complaint continues:

23           In enticing Plaintiff to invest \$2 million **for a membership interest** in the limited  
 24 liability company called Desert Creek Film Fund I, LLC....

25 (Doc. 27 at 6, ¶21) (emphasis added).

26           The amended complaint further continues:

27           Upon information and belief, Plaintiff is the Majority-In-Interest **Member** of the  
 28 [Desert Creek Film Fund I] LLC.

(Doc. 27 at 9, ¶42) (emphasis added).

          Thus, Plaintiff has, within the same document, represented that the only member of  
 Desert Creek Film Fund I, LLC is another LLC *and* that she herself is a member of the  
 Desert Creek Film Fund I, LLC. These are directly contradictory allegations, one of which  
 destroys diversity. Further, both allegations required Plaintiff to have a good faith belief  
 to make the allegation.

1 Plaintiff has now filed a motion to compel discovery claiming she needs discovery  
2 to learn the members of the Desert Creek Film Fund I, LLC (and the other LLCs). (Doc.  
3 39). However, Defendants have filed a corporate disclosure statement claiming Plaintiff is  
4 the sole member of Desert Creek Film Fund I, LLC. (Doc. 37). Plaintiff fails to explain  
5 what her basis would be to believe this disclosure statement is false.

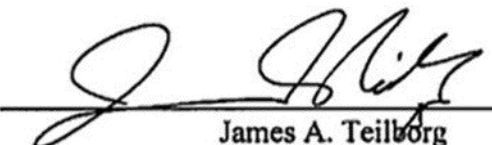
6 Based on the foregoing,

7 **IT IS ORDERED** that by June 5, 2023, Plaintiff shall file a further jurisdictional  
8 supplement showing cause why this case should not be dismissed for lack of federal subject  
9 matter jurisdiction.

10 **IT IS FURTHER ORDERED** that by June 7, 2023, Ashley Mulé shall show cause  
11 why she should not be sanctioned for violating her duty of candor to the court. *See* LR  
12 Civ. 83.2(e) (attorneys authorized to practice before this Court are bound by the Rules of  
13 Professional Conduct in the Rules of the Supreme Court of the State of Arizona).  
14 Specifically, she must address her good faith basis for making directly contradictory  
15 allegations in the amended complaint.

16 Dated this 30th day of May, 2023.

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James A. Teilborg  
Senior United States District Judge